THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 19544 of 2007

Date:14-09-2007

Between:

Padmanabuni Varalakshmi and two others **…Petitioners**

AND

The Tahsildar, Sabhavaram

..

Respondent

ORDER:

The petitioners seek a writ of mandamus to declare that the action of the respondent in issuing show cause notice, dated 21.08.2007 in R.C.No.876/2007 received on 24.08.2007 regarding the land in Sy.No.4/1, 4/2, and 4/3 of Gollalapalem village, Sabbavaram mandal in an extent of Ac.03.36 cents, Ac.3-96 cents and Ac.3-95 cents respectively, as illegal and arbitrary.

The case of the petitioners is that the then Mandal Revenue Officer, Sabbavaram issued D-Form pattas in favour of the petitioners in Sy.No.4/1, 4/2, and 4/3 of Gollalapalem village, Sabbavaram mandal of an extent of Ac.03.36 cents, Ac.3-96 cents and Ac.3-95 cents respectively in Proceedings DR.No.50B/99 HC, dated 19.12.1989.

It is stated that pursuant to the said assignment made in the year 1989, the petitioners have developed the said land and raised cashew nut garden.

While so, the respondent herein issued a notice in Form No.I under Rule 3 of the A.P. Assigned Lands (Prohibition of Transfers) Rules, 2007 alleging that the said lands were assigned in favour of eleven persons viz. Petla Demudu, Petla Durgalu, Petla Apparao, Petla Chinnarao, Petla Paradesi,Petla Polipallil and Petla Varahalu of an extent of Ac.11-26 cents in Sy.Nos.4/1, 2 and 3 of Gollalapalem village, Sabbavaram mandal, Visakhapatnam District. But, the said land has been transferred in favour of the petitioners in contravention

of the provisions of sub-section (2) of Section 3 of the A.P. Assigned (Prohibition of Transfers) Act, 1977
(for short 'the Act') and therefore, a show cause notice has been issued as to why the said land shall not be resumed to the government under Section 4 of the Act, if no explanation has been submitted within (15) days.

It is stated that pursuant to the said show cause notice, dated 21.08.2007 which was received on 24.08.2007, the petitioners have filed their explanation on 03.09.2007 stating that they are the original assignees and they have not purchased the lands from the said persons mentioned in the show cause notice and therefore, there is no violation of the Act.

I am not inclined to express any opinion as to whether the said lands were assigned in favour of the aforesaid eleven persons and whether the petitioners have purchased the said lands in contravention of Section 3 of the Act. These matters are required to be enquired into and considered by the respondent.

Having regard to the facts of the case, the writ petition is disposed of directing the respondent to conduct enquiry with regard to the explanation submitted by the petitioners and pass appropriate orders, after giving reasonable opportunity to the petitioners, in accordance with law and till the final orders are passed, the petitioners shall not be dispossessed. There shall be no order as to costs.

V.ESWARAIAH, J.

Date:14.09.2007

Note:

Furnish C.C. within two days.

B/O

ccm